

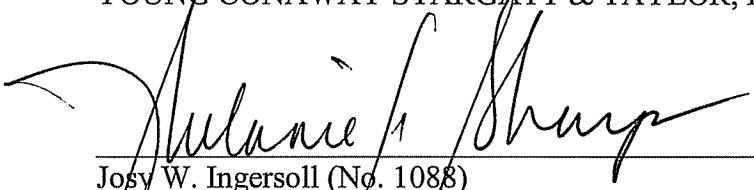
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Abbott Diabetes Care, Inc., <i>a Delaware corporation,</i>)	
)	
)	
Plaintiff,)	C.A. No. 05-590 (GMS)
)	
)	
v.)	
)	
DexCom, Inc., <i>a Delaware corporation,</i>)	
)	
)	
Defendant.)	

**DEXCOM, INC.'S MOTION TO STRIKE "AMENDED COMPLAINT"
AND RENEWED MOTION TO DISMISS COMPLAINT**

Defendant DexCom, Inc. ("DexCom") hereby respectfully moves, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss the "Amended Complaint" (D.I. 55) and to renew its motion to dismiss the original complaint (D.I. 1) in the above action. DexCom alternatively moves to strike, the "Amended Complaint" (D.I. 55) for failure to seek leave of court under Rule 15(d). The grounds for this combined motion are set forth in DexCom's accompanying opening brief, and the opening and reply briefs in support of DexCom's Motion to Dismiss the original complaint. (D.I. 5, 6, 19.)

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DATED: July 12, 2006

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Abbott Diabetes Care, Inc.,)
a Delaware corporation,)
)
Plaintiff,) C.A. No. 05-590 (GMS)
)
)
v.)
)
DexCom, Inc.,)
a Delaware corporation,)
)
Defendant.)

ORDER

This _____ day of _____, 2006, defendant DexCom (“DexCom”) having moved to dismiss the Complaint (D.I. 1) and Amended Complaint (D.I. 55) in the above action pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, or alternatively to strike said Amended Complaint for failure to seek leave of court under Rule 15(d), and the Court, after considering the positions of the parties, having concluded that good grounds exist for the requested relief; now therefore,

IT IS HEREBY ORDERED that DexCom’s motion is granted and that the Complaint and Amended Complaint are dismissed.

United States District Judge

CERTIFICATE OF SERVICE

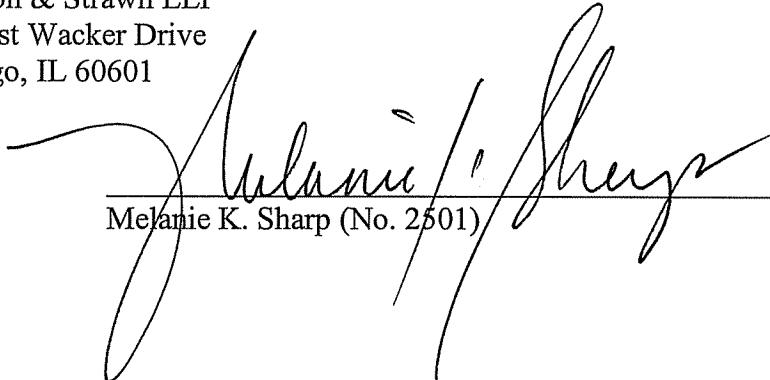
I, Melanie K. Sharp, Esquire, hereby certify that on July 12, 2006, I caused to be electronically filed a true and correct copy of the foregoing document, Dexcom, Inc.'s Motion to Strike "Amended Complaint" and Renewed Motion To Dismiss Complaint, with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Mary B. Graham, Esquire
Morris Nichols Arsh & Tunnell LLP
1201 North Market Street
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Wilmington, DE 19899-1347

I further certify that on July 12, 2006, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

BY E-MAIL

James F. Hurst, Esquire
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